

REMARKS

Applicants appreciate the courtesy Examiner Sheikh extended to applicants' representative in keeping the scheduled February 14, 2007 telephone conference, notwithstanding the significant ice storm in the Washington D.C. area on that date.

Claims 171-200 were pending. Applicants have hereinabove cancelled without prejudice claims 171-200 and have submitted new claims 201-214. Applicants maintain that new claims 201-214 place the application in better condition for allowance. No new matter has been added by this Amendment. Applicants note that new claims 201-214 are all method claims having essentially the same limitations as the previously pending composition claims. Support for new claims 201-214 appears throughout the specification including, *inter alia*, in the Summary of the Invention on page 2, in the Detailed Description of the Invention on pages 6-7 and 13-14, and Example 18.

Accordingly, applicants respectfully request that the Examiner enter this Amendment. Upon entry of this Amendment, new claims 201-214 will be pending.

Rejection Under 35 U.S.C. § 103(a)

In the December 19, 2006 Final Office Action, the Examiner stated that applicants' response dated August 31, 2006 had been considered and was found to be partially persuasive. Based on that response the Examiner has withdrawn the use of U.S. Patent No. 6,517,863 (hereinafter "LaTorre") and now uses LaTorre only as a secondary reference. The Examiner now relies on WO 99/37287 (hereinafter "Lee") as the primary reference. More specifically, in the December 19, 2006 Final Office Action the Examiner rejected the previously pending claims under 35 U.S.C. § 103(a) as being unpatentable under Lee in view of LaTorre and further in view of U.S. Patent No. 6,224,888 (hereinafter "Vatter").

In response, applicants respectfully traverse the Examiner's rejection under 35 U.S.C. § 103(a). Without conceding the correctness of the Examiner's bases for rejecting the previously pending claims and to expedite prosecution of the instant application, applicants have hereinabove cancelled without prejudice claims 171-200 and have submitted new claims 201-214, which applicants maintain are not obvious over the cited references.

Applicants note that new claim 201 is the only presently pending independent claim.

New claim 201 recites:

A method for preserving cosmetic compositions admixing bioactive glass and a substantially anhydrous cosmetic formulation, wherein said bioactive glass comprises from about 30% to about 96% silicon dioxide (SiO_2), from about 4% to about 46% calcium oxide (CaO), from about 1% to about 15% phosphorus oxide (P_2O_5) and up to about 35% sodium oxide (Na_2O), all by weight of said bioactive glass, with the proviso that said bioactive glass does not comprise ions of silver, copper or zinc, wherein said bioactive glass comprises from about 0.05% to about 30% by weight of said cosmetic composition, wherein said cosmetic formulation is selected from the group consisting of lip products, face powder products, hair care products, deodorant products and soap products, and wherein said composition does not result in a significant skin sensitivity response when applied.

In sharp contrast to the currently pending claims, none of the cited references disclose, teach or suggest methods for preserving cosmetic compositions. Each of the cited references will be addressed below.

Lee is directed to using bioactive glass to treat inflammation of skin conditions. Lee states that bioactive glass can be mixed with a carrier prior to application to the skin. Lee, however, stresses that this mixing should be done immediately prior to use:

Most preferably, the bioactive glass and the carrier are mixed just before application to the skin. If the two ingredients are mixed several days prior to application, e.g. one week, the ability of the composition to mitigate the inflammation may be compromised.

This problem is particularly acute, if the carrier causes bioactive glass to pre-react in a way that reduces the bioactivity of the glass.

(Lee at page 5, lines 7-12)

Accordingly, Lee is distinguishable from new independent claim 201 since, *inter alia*, Lee (1) is directed to methods for treating skin inflammation rather than to methods for preserving cosmetic compositions; and (2) teaches away from applicants' invention as recited in the claim by stressing that the bioactive glass and the carrier should be "mixed just before application to the skin." Accordingly, Lee cannot render obvious new independent claim 201.

The secondary references LaTorre and Vatter do not cure the deficiencies of Lee recited above. LaTorre is directed to compositions and methods for treating nails and adjacent tissues. As with Lee, LaTorre stresses that bioactive glass compositions should be used "immediately after mixing" with water or a topical carrier. (See Col. 5, lines, 50-56.) Vatter does not discuss bioactive glass at all, much less methods of using bioactive glass as a cosmetic preservative.

Accordingly, applicants respectfully submit that new independent claim 201 is not rendered obvious by Lee in view of LaTorre and further in view of Vatter.

Dependent Claims

For the reasons stated above with respect to new independent claim 201, applicants maintain that new dependent claims 202-214 are not rendered obvious by the cited references alone or in any combination.

Conclusion

In view of the foregoing, applicants respectfully request that the Examiner reconsider and withdraw the rejections set forth in the December 19, 2006 Final Office Action and allow the presently pending claims, namely claims 201-214.

No fee is believed to be necessary in connection with the filing of this Amendment. If any fee is deemed to be necessary, applicants hereby authorize such fee to be charged to Deposit Account No. 50-0540.

If a telephone interview would be of assistance in advancing prosecution of this application, applicants' undersigned attorney encourages the Examiner to telephone him at the number provided below.

Respectfully submitted,

Dated: February 20, 2007

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